

COMMISSIONERS APPROVAL

GRANDSTAFF

ROKOSCH

THOMPSON

CHILCOTT

DRISCOLL

Present.....Commissioner Carlotta Grandstaff,
Commissioner Jim Rokosch, Commissioner Alan Thompson and Commissioner Kathleen
Driscoll

Date.....November 17, 2008

Minutes: Beth Perkins

► Commissioner Chilcott attended a MACo JPA meeting in Forsyth.

► The Board met for a public hearing for Ostrenga Appeal of Denied Exemption request. Present were Civil Counsel Karen Mahar, Clerk & Recorder Regina Plettenberg, Planner Tristan Riddell, Planner Randy Fifrick, Representatives Jake and Jean Kammerer and Mr. & Mrs. Ostrenga.

Tristan gave a brief overview. He stated the process started in May of 2008 for an exemption filed by Mr. Ostrenga. Tristan stated the Ostrengas were served with a notice of denial for the family transfer since Mrs. Ostrenga completed a family transfer the previous year. Based on family history, they denied the request for subdivision exemption and now the Ostrengas are appealing.

Jake Kammerer stated Julie has completed family transfers before however; this is a different piece of property. He stated there was no time limit or rule at that time. He explained the split of this property is to provide a piece of land for Mr. Ostrenga's mother, son and wife. Jake stated Montana law provides for this type of exemption. He has been denied based on his wife's previous family transfer. Commissioner Driscoll asked if one family can do an exemption. Tristan replied only one person of the family can do one transfer. Commissioner Grandstaff asked if Mr. Ostrenga received notice that the first transfer would affect any future transfers. Mr. Ostrenga replied no, he did not know that. Tristan replied Jake was at the meeting and his consultant was fully aware. Mrs. Ostrenga stated she was told the parcel cannot be sold, but nothing of future splits.

Jake read the letter that was received by Mrs. Ostrenga to the Board. Jake stated at the time the parcel was sold, there was no rule the family could not sell it. Civil Counsel

Karen Mahar stated that is not entirely true. There was the ability to review transfers for evasion. Karen stated it does not have to be the same holder to find evasion. She cited a case in Lake County of Martinson and also a case of Withers. Commissioner Rokosch questioned Julie's parcel. Jake stated it was previously called the Lloyd family transfer. Commissioner Rokosch asked when the 38 acre parcel was purchased. Mr. Ostrenga replied November of 2007. Tristan stated one month after Mrs. Ostrenga's transfer, Mr. Ostrenga's parcel was sold. Civil Counsel Karen Mahar asked what is still owned on the original parcel. Mrs. Ostrenga replied about 6 ½ acres. Commissioner Rokosch questioned the split of Mr. Ostrenga's land. Mr. Ostrenga replied it would go to his mother, his son Travis, and his wife.

Jake stated it was normal of this county to put a restriction on the remaining lot not the gifted lots. That was changed when James McCubbin was Deputy County Attorney. Karen replied it has changed over time and she is not questioning any evasion. She stated it is up to the Board to make the determination. Mr. Ostrenga stated he is requesting the transfer not his wife. **Commissioner Rokosch made a motion to deny the appeal. Commissioner Driscoll seconded the motion.**

Discussion: Commissioner Thompson stated the Board has seen this in the past. He is uncomfortable with husband and wife owning property separately and it going sour. He stated he is not comfortable with this occurring. He understands family transfers and trying to help keep family together however, he does not believe this is the case. He stated his heart goes out to the financial crises that happen but it still needs to go through the proper procedure. Commissioner Driscoll stated the Board cannot take into consideration financial hardship to base a decision upon. She believes the original decision was the correct one. **All voted 'aye'.**

► The Board met for the first reading of Ordinance No. 17 – Establishing Impact Fees continued from November 10th. Present were Civil Counsel Karen Mahar, Impact Fee Advisory Committee Chairman John Meakin, Assistant Planner Jon Wickersham and several citizens.

Commissioner Grandstaff called the meeting to order. Karen reviewed changes submitted via email from the Impact Fee Advisory Committee. She stated the word Advisory will be added to all Committee references and there is mis-numbering of paragraphs. She stated she disagrees with the changes submitted by the Advisory Committee because the proposal including the study as one of its components. She stated they can submit their proposal in whatever form the statute -6-1602 allows. John stated he is not in objection to changes of Civil Counsel. Karen suggested reading the two paragraphs and choosing between them. Commissioner Rokosch stated he would like to stay with the original paragraph. Karen reviewed number 5 and stated she has no problem deleting the section referring to scheduling if it is too confusing. She stated a Resolution will include the process. Commissioner Rokosch questioned the word classification. Karen replied there can be different fees for classification such as residential or commercial development. She stated there might not be any classification. John stated he is good with removing the sentence. Commissioner Rokosch suggested adding the word development in front of the

word classification. Commissioner Grandstaff and Commissioner Driscoll recommended leaving it out for clarity. Commissioner Rokosch questioned leaving an effective date for imposition of those fees. John included striking adopting fees and schedules.

Karen reviewed section 6 sub-section d. She stated the paragraph is to establish the means of the value of the proposed dedication or construction. She stated it was to establish a way to address credits that is not clear in the statute. She stated it would still have to be brought to the Board to establish cash in lieu. Commissioner Rokosch suggested changing the word “pay” to “credit”. Karen stated it would make it more open ended however she cautioned the Board without consulting Internal Auditor Klarryse Murphy. John stated the first sentence is enough. He suggested striking the remainder of the paragraph. Board discussion followed regarding striking the sentence. Karen recommended adding language for cost over run. The Board agreed to leave the last sentence.

Karen reviewed section 7 – Appeal Process. She stated language has been added regarding the notice of appeal to the Planning Department within five business days following the date the impact fee is imposed via certified mail. Karen discussed the Board adopting a resolution setting the fees. She stated she is determining when the fees are legally imposed. Commissioner Grandstaff stated once the permit for septic is issued, then the amount of the impact fee would be determined and the date it is imposed. Karen stated the statute says the fee imposed can be no earlier than the wastewater or septic permitting. She stated that is when the notice should go out. Commissioner Grandstaff suggested extending the notice to ten days rather than five days. Karen stated in the third paragraph the deadline is within 45 days. She is in agreement with the deadline.

Commissioner Grandstaff opened public comment.

Chris Daniel asked if it is possible for the money taken from impact fees be put into a fund for capital improvement. He asked if there is any way to take those fees and put them into a fund for the road in the future. Commissioner Grandstaff replied she believes Chris is speaking of pro rata for roads not impact fees. John stated with other fees collected, they can go towards road maintenance. He stated a study needs to be done and he recommends addressing those issues of where and when the monies collected are spent. Chris stated during a meeting, it was discussed how impact fees should be used. He stated during this meeting, it was stated it would make sense to have a fund for road improvements with the Road Department. He stated it is logical with a 50 lot approved subdivision that needed a left hand turning lane, the County would help pay for it. Commissioner Grandstaff stated a road district would have to be defined. John stated impact fees are mandatory, created by State law, and may not address a left hand turning lane. Commissioner Grandstaff stated if the Board is going to adopt the ordinance then it should address existing taxing districts such as school districts, fire districts, etc. She stated it does not mean it can't include road districts but they do not exist yet.

Commissioner Thompson stated money collected from pro rata has to be used within a time frame. He gave an example of having to give money collected back because it was

not used in time. He stated money needs to be utilized within the County for the grader districts. Chris stated he is not saying to fix a road a developer has not fixed but charge a fee to the developer for the district to fix the road.

Niki Sardot questioned tax incentives for business to come to town. She asked what incentives are being given by the County. Commissioner Grandstaff replied the question came up for the Hamilton City Council. She stated it was turned down due to the tax break the business would receive to the point of paying less than other existing businesses. Niki stated the impact fees are hurting growth and discouraging jobs. Commissioner Grandstaff stated the developer will now be paying for the development. She stated it is a form of tax relief. Niki stated she does not see it that way. She sees it as a tax and a burden. Commissioner Driscoll stated it is personalized to the issue and it has to be based on fact to establish the fees. Niki asked if a Quality Supply is coming in with 80 new jobs, how much would the impact fees would be. She questioned the procedure of creating the fees. Commissioner Driscoll replied studies need to be conducted for fact based decisions and are required by law. There has to be balance within economic development.

Commissioner Grandstaff closed public comment.

Karen returned with the changes made to the ordinance. The Board reviewed the changes with Karen. Some additional grammatical changes were added as well as:

Page 1 – misspelling

Page 2 – Section four second paragraph “60 to 45 business days”, fourth paragraph “not beyond 45 business days”.

Page 4 - Section 7 – top paragraph last sentence, the language “more than 45 business days” will be inserted following 15 business days.

Commissioner Rokosch made a motion to approve the first reading of Ordinance No. 17 as amended here today. Commissioner Driscoll seconded the motion.

Discussion: Commissioner Thompson questioned Section 6 and how it reads. Karen stated it is the way the law is written.

All voted ‘aye’. Second Reading is scheduled for December 4th at 9 a.m.

► The Board met for a personnel matter. Closed door was invoked.